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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/748,994	12/27/2000	Douglas B. Quine	F-240	6431

919 7590 01/28/2010

PITNEY BOWES INC.
35 WATERVIEW DRIVE
MSC 26-22
SHELTON, CT 06484-3000

EXAMINER	
LEE, TOMMY D	

ART UNIT	PAPER NUMBER
2625	

NOTIFICATION DATE	DELIVERY MODE
01/28/2010	ELECTRONIC

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte DOUGLAS B. QUINE

Appeal 2009-003745
Application 09/748,994
Technology Center 2600

Decided: January 26, 2010

Before KENNETH W. HAIRSTON, JOHN A. JEFFERY, and CARL W. WHITEHEAD, JR., *Administrative Patent Judges*.

WHITEHEAD, JR., *Administrative Patent Judge*.

DECISION ON APPEAL

Appellant appeals under 35 U.S.C. § 134 from the Examiner's rejection of claims 1, 5, 7, 12-23 and 25. (Br. 3.) We have jurisdiction under 35 U.S.C. § 6(b) (2002). We affirm.

STATEMENT OF THE CASE

Appellant invented a method for verifying the authenticity of received documents by computing an encrypted checksum of the transmitted document and comparing a decrypted checksum of the received document at the destination device with the encrypted checksum value at the originating device.[1]

Claim 1, which further illustrates the invention, follows:

1. A method of authenticating a facsimile document communicated between a first facsimile communication device and a second facsimile communication device via a communications network, comprising the steps of:
a. receiving input data representing the entire facsimile document and generating facsimile information in a first format by said first communication device from said input data;
b. processing said input data, at said first communication device, to compute an encrypted checksum of the entire input data;
c. convolving said facsimile information with said encrypted checksum data to produce convolved data;
d. decrypting, at said second communication device, said encrypted checksum;
e. computing a checksum of said input data received at said second communications device; and
f. alerting a recipient at said second communication device in the event of a mismatch between said checksum data computed in step (e) and said decrypted checksum data in step (d) by clearly marking a print out of the received input data indicating a tamper condition.

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[1] *See generally* Br. 3.

The Rejections

The Examiner relies upon the following prior art references as evidence of unpatentability:

Reifman	US 5,438,433	Aug. 1, 1995
Lee	US 6,170,744 B1	Jan. 9, 2001

Claims 1, 5, 7, 12-23 and 25 stand rejected under 35 U.S.C. § 103(a), as being unpatentable over Reifman and Lee (Ans. 3-9).

Rather than repeat the arguments of Appellant or the Examiner, we refer to the Brief and the Answer for their respective details. In this decision, we have considered only those arguments actually made by Appellant. Arguments which Appellant could have made but did not make in the Brief have not been considered and are deemed to be waived. *See* 37 C.F.R. § 41.37(c)(1)(vii) (2008).

Obvious Rejection

Appellant argues that the Reifman and Lee references employed in the 35 U.S.C. § 103 rejection are not combinable because they are not analogous (Br. 9-10). Also, Appellant argues that the cited references do not appear to describe convolving the data as claimed and marking a print out of the received input data (Br. 10).

ISSUES

The issues before us are:

1. Are the Reifman and Lee references non-analogous technology?

2. Has the Appellant shown that the Examiner erred in finding that the combination of Reifman and Lee discloses convolving the data as claimed and marking a print out of the received input data?

FINDINGS OF FACTS

Reifman

1. The intelligent facsimile machine (IFAX) decrypts encrypted incoming messages and compares the two to determine if the original document has been tampered with and if so, issues an Error Report and enter it into an Error Log (col. 48, ll. 48-59).

Lee

Figure 4 is reproduced below:

FIG. 4

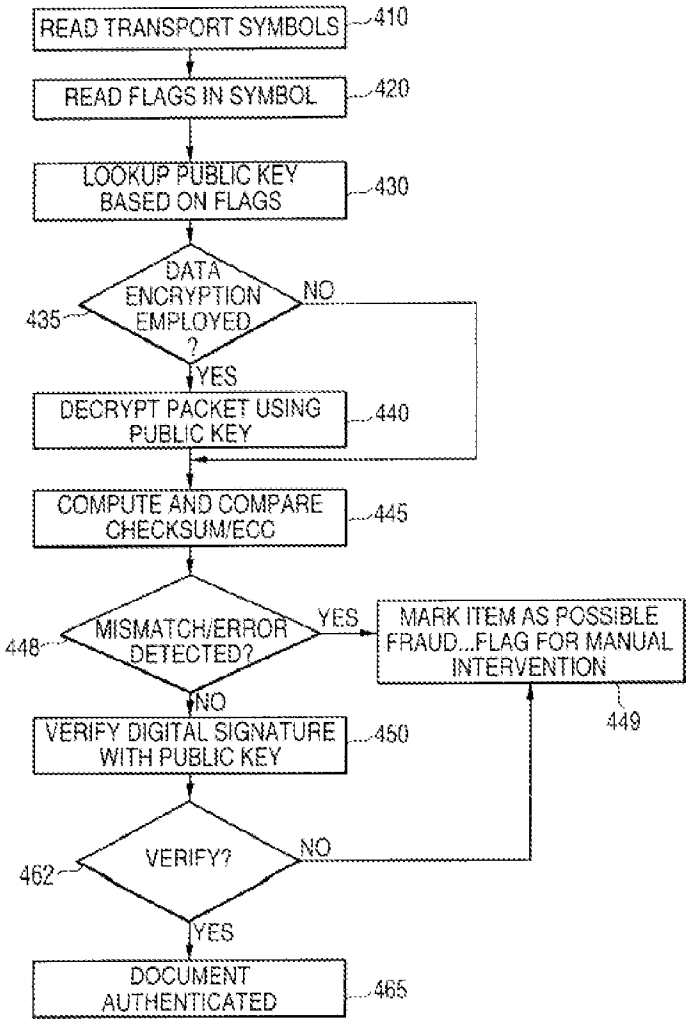

Figure 4 discloses a method for document authentication wherein data encryption is employed, decrypted, verified and marked or flagged if document tampering is discovered (col. 12, ll. 54-68, col. 13, ll. 1-3).

PRINCIPLES OF LAW

As stated in *In re Kahn*, 441 F.3d 977 (Fed. Cir. 2006), "[t]he analogous-art test requires that the Board show that a reference is either in the field of the applicant's endeavor or is reasonably pertinent to the problem with which the inventor was concerned in order to rely on that reference as a

basis for rejection." *Id.* at 986-87 (citing *In re Oetiker*, 977 F.2d 1443, 1447 (Fed. Cir. 1992)).

If the Examiner's burden is met, the burden then shifts to the Appellant to overcome the prima facie case with argument and/or evidence. Obviousness is then determined on the basis of the evidence as a whole and the relative persuasiveness of the arguments. *See In re Oetiker*, 977 F.2d at 1445).

ANALYSIS

Appellant contends that Reifman and Lee are non-analogous because Lee requires the use of physical documents that are physically generated at the source and Reifman deals exclusively with electronic facsimile document transmission (Br. 9-10). Examiner argues that both Reifman and Lee teach computation of code associated with the comparison of encrypted received data with the result of the data once it has been decrypted to determine if the decrypted received data has been altered from the original encrypted data (Ans. 10). Based on these similarities, the Examiner concludes that the two references are analogous and therefore properly combined. *Id.* We find the Examiner's arguments to be persuasive.

Both Reifman and Lee address document fraud using encryption and decryption to authenticate received data and provide notice when fraud is discovered. *See* FF 1-2. *See Kahn*, 441 F.3d at 986-87. We therefore find that Reifman and Lee are analogous art.

Appellant states that even if the references are held to be properly combined, the claimed invention is not rendered obvious because the references *do not appear* to describe convolving the data and marking a print

out of received input data (emphasis added) (Ans. 10-11). The Examiner addressed the convolving and marking limitations of the claims in the rejection thus establishing a prima facie case of obviousness based upon the combination of Reifman and Lee. *See* Ans. 3-4. Appellant does not set forth any arguments or provide any evidence that would persuade us that the Examiner erred in rejecting the claims over Reifman and Lee. *See Oetiker*, 977 F.2d at 1445. We therefore will sustain the Examiner's obviousness rejection of claims 1, 5, 7, 12-23 and 25.

CONCLUSIONS

Appellant has not shown that the Reifman and Lee references were non-analogous technology.

Appellant has not shown that the Examiner erred in finding that the combination of Reifman and Lee discloses convolving the data and marking a print out of the received input data as claimed.

ORDER

We will sustain the Examiner's decision rejecting claims 1, 5, 7, 12-23 and 25.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED

gvw

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